

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
AIKEN DIVISION

Seaton H. Letts,)	Civil Action No.: 1:12-731-MGL
)	
	Petitioner,)
)	
v.)	<u>OPINION AND ORDER</u>
)	
Kenny Atkinson,)	
)	
	Respondent.)
_____)	

Pro se Petitioner Seaton H. Letts (“Petitioner”), a federal prisoner housed at the Federal Correctional Institution (“FCI”) in Edgefield, South Carolina, filed this habeas relief action pursuant to 28 U.S.C. § 2241. (ECF No. 1). Petitioner alleges that the Bureau of Prisons (“BOP”) has failed to properly calculate his sentence. This matter is before the court on Respondent’s motion to dismiss, or in the alternative for summary judgment. (ECF No. 17.) In accordance with 28 U.S.C. § 636(b)(1)(B) and Local Civil Rule 73.02(B)(2)(c), D.S.C., this matter was referred to United States Magistrate Judge Shiva V. Hodges for pre-trial proceedings and a Report and Recommendation (“Report”). On November 20, 2012, Magistrate Judge Hodges issued a Report recommending that Respondent’s motion for summary judgment be denied and the petition for writ of habeas corpus be dismissed as moot because BOP has already credited Petitioner with the appropriate time toward his federal sentence. (ECF No. 35.) The Magistrate Judge advised Plaintiff of the procedures and requirements for filing objections to the Report and Recommendation and the serious consequences if he failed to do so. (ECF No. 35 at 6.) Plaintiff has filed no objections and the time for doing so expired on December 7, 2012.

The Magistrate Judge makes only a recommendation to this court. The recommendation has

no presumptive weight, and the responsibility to make a final determination remains with the court. *See Mathews v. Weber*, 423 U.S. 261, 96 S.Ct. 549, 46 L.Ed.2d 483 (1976). The court is charged with making a *de novo* determination of any portion of the Report and Recommendation of the Magistrate Judge to which a specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or recommit the matter to the Magistrate Judge with instructions. *See* 28 U.S.C. § 636(b). The court reviews the Report and Recommendation only for clear error in the absence of an objection. *See Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (stating that “in the absence of a timely filed objection, a district court need not conduct a *de novo* review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.”) (citation omitted).

After a thorough review of the record of this matter, the applicable law, and the Report and Recommendation of the Magistrate Judge, the court finds no clear error. Accordingly, the court adopts and incorporates the Report and Recommendation (ECF No. 35) by reference into this order.

It is therefore ORDERED that the Respondent’s motion to dismiss/summary judgment be DENIED and the petition for writ of habeas corpus be DISMISSED as MOOT as Petitioner has received the requested relief.

IT IS SO ORDERED.

s/Mary G. Lewis
United States District Judge

December 13, 2012
Spartanburg, South Carolina